

FILED-CLERK
U.S. DISTRICT COURT

2007 MAY 31 PM 4:06

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TX EASTERN-MARSHALL
MARSHALL DIVISION

BY _____

GraphOn Corporation, a Delaware Corporation,)	
)	
Plaintiff,)	
)	Civil Action No. <u>2 - 07 C V - 220</u>
v.)	
)	JURY TRIAL DEMANDED
Juniper Networks, Inc., a California Corporation,)	
)	
Defendant.)	
)	
)	
)	

COMPLAINT FOR PATENT INFRINGEMENT AND DEMAND FOR JURY TRIAL

Plaintiff, GraphOn Corporation, alleges the following in support of its Complaint for Patent Infringement and Demand for Jury Trial (“Complaint”) against Defendant Juniper Networks, Inc. (“Juniper”).

PARTIES

1. Plaintiff GraphOn Corporation (“GraphOn”) is a corporation organized and existing under the laws of the State of Delaware, and has its principal place of business at 5400 Soquel Avenue, Suite A2, Santa Cruz, California.

2. Upon information and belief, Defendant Juniper is a corporation duly organized and existing under the laws of the State of California, having a place of business at 1194 North Mathilda Avenue, Sunnyvale, CA 94089.

JURISDICTION

3. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a) because this action arises under the patent laws of the United States, including 35 U.S.C. § 271 *et seq.* The Court has personal jurisdiction over Defendant because it has committed acts within Texas and this judicial district giving rise to this action and has established minimum contacts with the forum such that the exercise of jurisdictions over Defendant would not offend traditional notions of fair play and substantial justice.

VENUE

4. The Defendant has committed acts within this judicial district giving rise to this action and does business in this district, including one or more of the infringing acts of offering for sale, making sales, using infringing products and providing service and support to their respective customers in this district. Venue is proper in this district pursuant to 28 U.S.C. §§ 1391(b) & (c) and 1400(b).

COUNT 1

(Patent Infringement)

5. Paragraphs 1-4 of the Complaint set forth above are incorporated herein by reference.

6. On October 20, 1998, United States Patent No. 5,826,014 ("the '014 Patent") entitled "Firewall System For Protecting Network Elements Connected To A Public Network" was duly and legally issued to Christopher D. Coley and Ralph E. Wesinger, Jr. All rights and interest in the '014 Patent have been assigned to GraphOn. A true and correct copy of the '014 Patent is attached hereto as Exhibit A.

7. On May 9, 2000, United States Patent No. 6,061,798 ("the '798 Patent") entitled "Firewall System For Protecting Network Elements Connected To A Public Network" was duly and legally issued to Christopher D. Coley and Ralph E. Wesinger, Jr. All rights and interest in the '798 Patent have been assigned to GraphOn. A true and correct copy of the '798 Patent is attached hereto as Exhibit B.

8. On April 11, 2006, United States Patent No. 7,028,336 ("the '336 Patent") entitled "Firewall Providing Enhanced Network Security And User Transparency" was duly and legally issued to Ralph E. Wesinger, Jr. and Christopher D. Coley. All rights and interest in the '336 Patent have been assigned to GraphOn. A true and correct copy of the '336 Patent is attached hereto as Exhibit C.

9. Defendant Juniper makes, uses, offers to sell and sells its Hardware Security Client, and its NetScreen, SSG and ISG series of firewall products.

10. Upon information and belief, Juniper has infringed and continues to infringe under 35 U.S.C. § 271 the '014 Patent, the '798 Patent and the '336 Patent ("the patents-in-suit"). The infringing acts include, but are not limited to, making, using, offering to sell and selling certain of the above-identified firewall products that are covered by one or more claims of the patents-in-suit.

11. Juniper's acts of infringement have caused damage to GraphOn. Under 35 U.S.C. § 284, GraphOn is entitled to recover from Juniper the damages sustained by GraphOn as a result of its infringement of the patents-in-suit. Juniper's infringement of GraphOn's exclusive rights under the patents-in-suit will continue to damage GraphOn's business, causing irreparable harm, for which there is no adequate remedy of law, unless enjoined by this Court under 35 U.S.C. § 283.

12. Upon information and belief, Juniper's infringement of the patents-in-suit has been willful and deliberate, and entitles GraphOn to increased damages under 35 U.S.C. § 284 and attorney fees and costs under 35 U.S.C. § 285.

PRAYER FOR RELIEF

WHEREFORE, GraphOn respectfully requests that this Court enter judgment against Juniper as follows:

- (a) For judgment that Juniper has infringed and continues to infringe the patents-in-suit.
- (b) For preliminary and permanent injunctions under 35 U.S.C. § 283 against Juniper and its directors, officers, employees, agents, subsidiaries, parents, attorneys, and all persons acting in concert, on behalf of, in joint venture, or in partnership with Juniper from further acts of infringement;
- (c) For damages to be paid by Juniper adequate to compensate GraphOn for its infringement, including interests, costs and disbursements as the Court may deem appropriate under 35 U.S.C. § 284;
- (d) For judgment finding that Juniper's infringement was willful and deliberate, entitling GraphOn to increased damages under 35 U.S.C. § 284.
- (e) For judgment finding this to be an exceptional case, and awarding GraphOn attorney fees under 35 U.S.C. § 285; and
- (f) For such other and further relief at law and in equity as the Court may deem just and proper.

///

///

DEMAND FOR JURY TRIAL

Pursuant to the Federal Rules of Civil Procedure Rule 38, Plaintiff GraphOn Corporation hereby demands a jury trial on all issues triable by jury.

Dated: May 31, 2007

By:



S. Calvin Capshaw

State Bar No. 03783900

Elizabeth L. DeRieux

State Bar No. 05770585

Andrew W. Spangler

State Bar No. 24041960

BROWN McCARROLL LLP

1127 Judson Road, Suite 220

P.O. Box 3999

Longview, Texas 75601-5157

Telephone: (903) 236-9800

Facsimile: (903) 236-8787

E-Mail: ccapshaw@mailbmc.com

E-Mail: ederieux@mailbmc.com

E-Mail: aspangler@mailbmc.com

OF COUNSEL

Michael D. Rounds

Nevada Bar No. 4734

Padma Choudry

Nevada Bar No. 9784

WATSON ROUNDS

5371 Kietzke Lane

Reno, NV 89511

Telephone: (775) 324-4100

Facsimile: (775) 333-8171

E-Mail: mrounds@watsonrounds.com

E-Mail: pchoudry@watsonrounds.com

Joseph Vanek

VANEK, VICKERS & MASINI

111 S. Wacker Drive, Suite 4050

Chicago, IL 60606

Telephone: (312) 224-1500

Facsimile: (312) 720-4042

E-Mail: jvanek@vaneklaw.com

Eugene M. Cummings
Konrad V. Sherinian
COOK ALEX
One North Wacker Drive, Suite 4130
Chicago, IL 60606
Telephone: (312) 984-0144
Facsimile: (312) 984-0146
E-Mail: ecummings@emcpc.com
E-Mail: ksherinian@emcpc.com

Attorneys for Plaintiff,
GRAPHON CORP.